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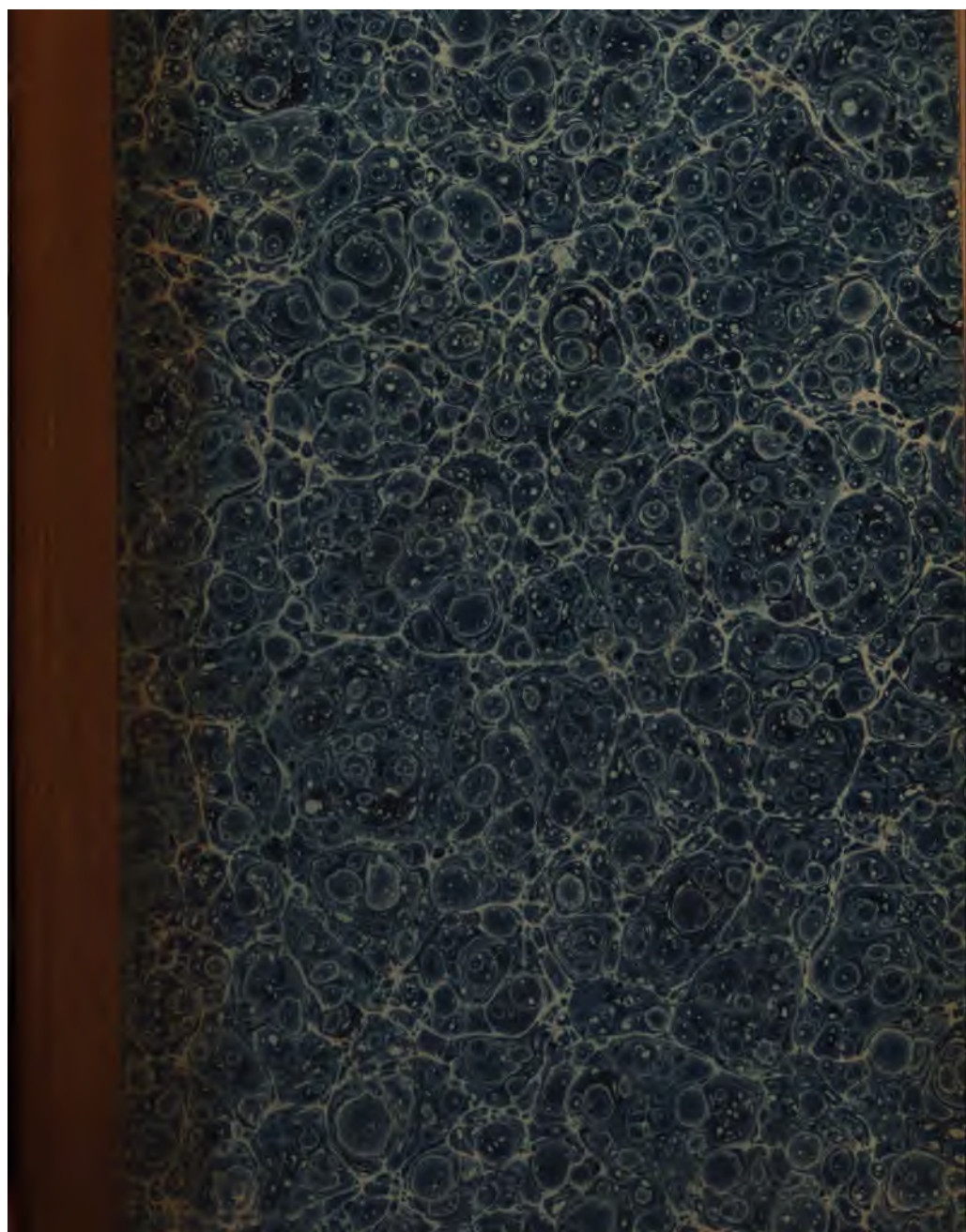
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AN ARGUMENT
RESPECTING
MORAL DUTY IN LEGISLATION:
AN HUMBLE ATTEMPT
TO SERVE
THE HONOURABLE HOUSE OF COMMONS,

AT THE PRESENT CRISIS,

AUGUST 1, 1836.

BY THE
REV. PETER BLACKBURN, M.A.

And whatsoever ye do, do it heartily, as to the Lord, and not unto men; knowing that of the Lord ye shall receive the reward of the inheritance: for ye serve the Lord Christ. But he that doeth wrong shall receive for the wrong which he hath done: and there is no respect of persons.—Col. iii. 23—25.

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AN ARGUMENT,

&c.

THE conduct of the House of Commons, in resolving to send up to the House of Lords another measure relating to the Established Church in Ireland, embracing the very same principle from which a large majority of the latter House has before declared its unqualified dissent, is a matter that calls for very serious notice. It challenges our attention, not merely because the settlement of an important question is thereby in danger of being postponed, and the harmony of the Legislature partially interrupted, but chiefly because it discovers the grievous fact, that a considerable number of our public men do not duly consider what Christian morality requires of them in respect of their political conduct. The consequence of this must be, that the business of legislation will still be liable to repeated embarrassments, dissensions in the State will be perpetuated,

and men's minds in private life drawn off from the calm and steady pursuit of the duties belonging to them, through a disturbing apprehension of what the issue of this state of things may be.

In reflecting on the very serious nature of these evils, the conviction has been very strongly impressed on my mind that nothing can be more proper, or is more wanted at the present moment, than a remonstrance humbly and respectfully addressed to those honourable persons whose conduct has evinced this inconsideration in the instance referred to, in the hope of inducing them, by the solicitation of truth, to reconsider their way, and amend the error into which they have fallen : and, in case of its unhappily failing to produce this effect, that it should then be followed up by that course of conduct towards those who refuse to be better advised, which Divine wisdom has recommended to be used when we would reclaim brethren who are guilty of wilfully disregarding the rule by which they ought to walk. "If any man," says St. Paul to the Thessalonians, "obey not our word by this epistle, note that man, and have no company with him, that he may be ashamed : yet count him not as an enemy, but admonish him as a brother."

To act according to the spirit of this injunction appears to me to be the remedy that should be tried for the evils of the present time, if, unhappily, remonstrance should prove in vain. And

I now humbly appeal to every one of the nobility, gentry, and clergy, who shall agree with the observations which I am about to make, manfully to do his part in putting this remedy to the proof. The course to which I now presume to direct the attention of my fellow-countrymen will undoubtedly be felt to be painful; and in some instances it may require a magnanimous disregard of private feelings and private interests in order to adopt it. But extraordinary evils require unusual remedies. And I venture to predict, from partial experience of what I now recommend, that if, in reliance on the wisdom of the Apostolic direction, we should resolve to keep ourselves at a distance from those in private life, who, in their public conduct, will persist in unjustifiable courses whilst seeking to give effect to political projects which they know we regard with abhorrence, as being, in our opinion, of evil omen to our country and ourselves, we shall not miss the result we desire to find, if only we are careful to act in a right spirit, making it manifest that we could wish, no less for our own sake than for theirs, to live on terms of social intercourse and good neighbourhood with them, but that we feel they have imposed on us the painful necessity of doing otherwise. I cannot doubt the general result of such a course of proceeding.

I shall now, then, address myself to the task of shewing, that those honourable members of the

House of Commons who, on the fourth of July, voted in favour of the "Appropriation Clause," in the Irish Church Bill, acted contrary to the principles of Christian morality; not doubting but that after I shall have shewn on what grounds of truth this assertion stands, there will be found some at least among this number, who will not suffer themselves to be prevented by a feeling of false pride, or false shame, from pursuing a different line of conduct with respect to it in future.

I. By the present constitution of the Legislature of this kingdom, each House of Parliament is invested with the privilege of stopping, by its negative, the progress of any measure which may have been proposed and consented to by the other. This law of the Constitution of course implies, that each House should consider itself bound to hold inviolate the other's right to exercise this privilege. As long, therefore, as this remains the law of the Constitution, so long must this be a civil duty arising out of it. But it is more than a civil duty : it is a moral and religious duty also. For whatsoever power has been established by the conventional acts of a civil society for the government thereof, becomes thenceforward an ordinance of Divine Providence in respect of that society, and so continues to be until the same shall have been changed or abolished by the consent of those who constitute the existing legislative body. This, I conceive, is the view

which every Christian man is bound to take of established authorities, in conformity with the Apostolic determination, that "there is no power but of God : the powers that be are ordained of God."

As a necessary consequence of this truth, it follows, that every power so established and so ordained of God justly claims from all, as a religious and moral duty, that they should submit themselves to it, so long as its acts are not at variance with any pledge by which it has been bound, or with any of the commandments of the Almighty. "Let every soul be subject to the higher powers."

Nothing, I presume, need be said to shew that this precept applies not only to the private subjects of a kingdom or state in respect of the obedience they are to render to the higher powers in it, but equally so to the several branches of a mixed legislature such as ours is, in respect of the submission they owe one to another in the business of legislation. And it not only restrains each of these from any design of obstructing the constitutional privilege with which another has been invested, and which it has only duly exercised, but when taken in connection with other precepts that describe the disposition of mind which Christ would have his disciples to cultivate, it requires, moreover, of each a respectful acquiescence in whatever result has been obtained by

the legitimate exercise of the other's constitutional privilege. "Submit yourselves," it is written, "one to another in the fear of God. Let nothing be done through strife or vain glory, but in lowliness of mind let each esteem other better than themselves." Such is the tenour of the Christian institution. Let us now compare the conduct of the House of Commons with it.

The House of Commons, in the session 1835, passed a resolution, that it was expedient to appropriate a supposed surplus of the property of the Established Church in Ireland to the furtherance of the national system of education in that country. The House of Lords expressed its strong dissent from this proposition. The law of the constitution says, that the negative of the House of Lords shall be a bar to that proposition passing into law. Such being the case, it is hardly conceivable that any one could venture to deny, that the House of Commons was bound by the precepts just recited, respectfully to acquiesce in the decision of the House of Lords. But what has been its conduct? It has sent up again this session, and not without some imperiousness of tone in its debates, a Bill embracing the same obnoxious proposition. It may have a legal right to do this; but I contend that it is contrary to the genius of the Constitution, and contrary also to the dictates of Christian morality. If indeed it had been at all doubtful whether the judgment of the House

of Lords remained the same, then there would have been something to allege in justification of the proceeding. But when the House of Commons had seen every effort previously made by seditious and bad men to bring the House of Lords, if possible, under popular odium, and thereby to intimidate them if possible into a compliance with this proposition, it being considered morally certain that in their unbiassed judgment they would again reject it, I am at a loss to imagine how the proceeding can be vindicated from the charge of being directly at variance with the precepts before rehearsed. And I confidently appeal to every member of the House of Commons who has made himself a party to it, whether he must not condemn himself of a breach of moral and religious duty. I do not mean to affirm that he was under a moral obligation to give up his own opinion of the proposition in consequence of the decision of the House of Lords upon it; but only that he was not at liberty, more especially under the circumstances I have noticed, to join in the design of sending it before the House of Lords again, merely because he conceived his own opinion of it to be right and theirs wrong. If he felt fully persuaded of the correctness of his own judgment respecting it, he was certainly at liberty to follow that judgment as though it were an infallible guide for himself; and this he may very

properly have done when he gave his unhesitating vote in favour of the proposition, when the House of Commons first divided upon it. But, unless he would pretend that he was at liberty to press his own judgment as an infallible guide for others, he ought not to have joined in something like an attempt to dictate to the House of Lords what its judgment ought to be, if not to coerce its decision. He ought rather, in respectful recognition of the privilege of this House, and in deference to its judgment, to have declined voting any more in support of any Bill embracing the proposition, until it had first obtained the consent of the House of Lords. The proposition might still have been introduced and advocated there by those noble Lords who are favourable to it; and as soon as it was seen that they had succeeded in persuading a majority to adopt it, then would have been the time for the House of Commons to proceed to legislate upon it again, and to ask the consent of the House of Lords to whatever measure they had agreed to found upon it. To have followed this course would only have been to exemplify the precepts to which I have referred. But, as the case stands at present, (I say it without any intention to offend any honourable member,) there would appear to be just reason for accusing the majority of the House of Commons, who voted in favour of the Appropriation Clause on the 4th of

July, with having evinced an assuming and arbitrary spirit quite opposed to the morality of the religion we profess.

This philosophy, I am afraid, will not meet with the approval of all to whom it is propounded. Would God that it might. But the spirit of party, and other feelings inimical to the exercise of a candid judgment, will probably prevent some from recognizing the simplicity of truth in the observations I have just made. Nay, some may even think proper to exclaim against them as inculcating a submission that would be degrading to them, and unfavourable to the progress of liberty and the attainment of justice, and so forth. To such persons I would wish to observe, that whatever is done in conformity with the Divine will, and in the fear of God, can never be a just cause for a feeling of degradation. It is to Him we bow, when we bow to others because of His word. Neither can such conduct have any such tendency as is here alleged, because the Lord of heaven and earth, who can turn and dispose the hearts of men as He sees fit, and can overrule all things for the good of those who walk in His holy fear, may be justly expected to secure to a people the fuller enjoyment of the blessings of a free and just government, when He sees them disposed to wait for these things in the way of His commandments; and, on the contrary, to disappoint their hopes, and defeat their purposes, when they scruple not

to disregard His will in the attempts they make to bring their own imaginations to pass. But if any should mean to allege, that they really feel that they have good grounds for treating this doctrine as a misrepresentation of the scope of Christ's precepts, I would by all means exhort them to produce their strong reasons, that we may know them, and not to leave the sincerity of their professed conviction of its error under merited suspicion, by contenting themselves with some such flippancy of reply as this, "Oh! it is too futile to be refuted." Alas! Alas! if it shall be found a truth, that in despising the statements here set forth, the words of God are verified in such persons, "I have written to them the great things of my law, but they were counted as a strange thing."

If any one, admitting the truth of the foregoing doctrine in general, should be disposed to ask, whether there may not be cases which may justly be considered as exceptions to it, I will readily answer in the affirmative. But it would indeed be grievous to think, and would almost make one despair of the destiny of our country to find, that men of character and station could intend to make this plea a salvo for their conscience in the present case. What! are the Commons of the empire, or their representatives in Parliament, unanimous in approving of this proposition, or any thing like unanimous? Is it not, on the contrary, con-

fessed that a large majority of the higher, and therefore better educated classes among the Commons, are equally opposed to this proposition as the House of Lords? And above all, is it forgotten, as a peculiar feature in the present case, that a majority in favour of it would not have been found in the House of Commons but for the votes of a body of men, who by the acknowledgment of honourable men of their own religious persuasion, as well as by the expectation of the rest of the Legislature, were bound by oath to have given no vote on it at all, or at least none in favour of it? It is morally impossible, I think, in the face of these circumstances, to pretend that the present is an instance in which the House of Commons was justly excused from that respectful deference and submission to the House of Lords for which I have been contending.

II. But the argument I am pursuing admits of being put yet more strongly. For I contend, that the conduct of the House of Commons in this instance involves a double breach of moral duty, inasmuch as it is an offence against the prerogative of the Crown, as well as against the privilege of the House of Lords.

It is well known, and no one can honestly pretend an ignorance of the fact, that his Majesty the King, in his private capacity, has most unequivocally testified his dissent from the proposition in question. This signification of the royal *dissent*

ought, I maintain, to be recognized by every member of the House of Commons as an equally valid *veto* on the proposition as though it had been given with the authority of an official act. But it will not follow that his Majesty's *consent* to any measure, if at any time expressed in the same way, or in any other way, before that measure has received the sanction of the two Houses of Parliament, is equally cognizable by the same rule. The reason for this distinction will soon appear.

By the law of the Constitution the Crown cannot express its judgment and pleasure in favour or condemnation of any measure that has been brought under the consideration of the legislature, until it shall have first obtained the consent of the two Houses of Parliament. It would very ill comport with the dignity of the Crown, that either House of Parliament should be able to thwart its pleasure, constitutionally made known and recognized, in reference to any measure of legislation; and accordingly provision has been made against any such unseemly occurrence, by that law of the Constitution to which I have just adverted. There might have been also another reason for this provision, namely, to preserve the Crown's legislative function from being usurped by those who may administer the executive under its authority, seeing that the Crown might not always be able to exercise an unfettered judgment in the appointment of its Ministers. However this may be, the former

is unquestionably a reason for the regulation ; and whether the latter was meant to be so or not, it may now be noticed as an additional reason for prizing this part of constitutional law ; seeing that it is hereby as effectually provided for as though it had been directly intended, that those who administer the executive under the Crown shall not be able to usurp the Crown's legislative function. It follows, however, from this ordinance of the Constitution, that neither the consent nor dissent of the Crown, if privately expressed concerning any measure, or even if officially expressed in a speech from the throne, can be a legitimate object of notice. The law of the Constitution requires that the King's mind should be considered as unknown both before the introduction, and during the progress, of any measure through the Houses of Parliament. And this I contend must ever continue to be the case with respect to the Crown's *consent*, if the unseemly occurrence I have alluded to is to be provided against, as it certainly ought to be in the fitness of things. This is a remark that calls for especial notice at the present time, seeing that the King's consent to the principles of the measure for the reform of the Irish corporations which his Ministers and the House of Commons have adopted, but which the House of Lords has rejected, has been unwarrantably assumed and spoken of very lately, in consequence of the recommendation of those principles having been

unconstitutionally introduced by his Ministers into the speech from the throne. But although a just regard to the dignity of the Crown requires that its *consent* to any measure of legislation should never be considered as a matter of knowledge by either House of Parliament, whilst that measure is in progress through the two Houses, it is not so with the Crown's privately expressed *dissent*. For the Crown's constitutional prerogative being to reject at its pleasure what may have received the sanction of both Houses of Parliament, its dissent if privately or unofficially made known, cannot afterwards be made of none effect except by its own retraction of it. It will not therefore follow, that the Crown's presumed *consent* to any measure may be as properly and legitimately spoken of as a known thing, and that advantage may be taken of it by either House of Parliament, to found thereon a justification of its resistance to the privilege of the other, if there should appear to be a good and sufficient reason why it should be held as sound constitutional doctrine, that the Crown's privately expressed *dissent* to any measure about which the Houses of Parliament are at variance, ought to be recognized as an equally valid *veto* as though it had been given with the authority of an official act.

These things being premised, I now proceed to observe, that if the Crown, in the present condition of society in this kingdom, would never

think of opposing its *veto* to the consent of the two Houses of Parliament, and may therefore perhaps be justly considered to have tacitly foregone this extent of its ancient prerogative, it is plain that it could have no independent share at all in legislation, if its dissent did not come into operation when the two Houses of Parliament happened to be at variance; and, what is very important to be noticed, if an unofficial or private expression of its dissent were not recognized as of the same authority, *foro conscientiae*, as though it had been given in conformity with the established forms of constitutional law. Here then is the reason why the Crown's privately expressed dissent respecting any measure about which the Houses of Parliament are at variance, ought to be deemed a proper object of notice, and why too it should be considered a matter of moral obligation on the particular House, from whose decision the Crown has signified its dissent in any case of this kind, to regard that dissent as authoritative, and forthwith to desist from pushing its measure forward. I say that there is reason given here why this should be considered its moral duty. For although the Crown may tacitly consent to abridge its ancient prerogative, out of regard to the very advanced state of society in this kingdom, yet it is not to be supposed that it has consented to abdicate it altogether. Neither are the Houses of Parliament at liberty to consider the prerogative

as a dead letter, because they would not expect to see it exercised in that particular way in which alone it can be according to the existing forms of the Constitution, and because the Crown would not now offer so to exercise it. For they can have no right jointly without the Crown's consent, and much less can either of them singly have any right, to abolish an essential principle of the Constitution; which yet they would virtually do, if, whilst the forms of the Constitution remain the same, and they legislate under the expectation that the Crown would not offer to reject any measure that had received their joint consent, they should either of them refuse to recognize the Crown's unofficially expressed dissent from any measure about which they were not agreed, as an authoritative exercise of its prerogative, to which they were bound to pay the most respectful submission.

For these reasons I contend that the House of Commons in the present case, after having seen its proposition negatived by the House of Lords in the last session, and knowing that the Crown had privately expressed its dissent from it, and having every reason to believe that the judgment of both still remained the same, was under a moral obligation to have abstained from pushing forward this proposition again this session, in submission no less to the prerogative of the Crown than to the privilege of the House of Lords.

If it should be objected that the pleasure of the Crown is properly to be known by the acts of its Ministers, and that as they have introduced the measure which contains the obnoxious proposition, it is right to presume that the Crown is not unfavourable to it, a few observations only will be necessary to show that this excuse will not avail. The Ministers of the Crown hold indeed its executive power, and their official acts carry with them the full authority of the Crown. But their propositions in the legislature are not cognizable as the sentiments of the Crown, because the only part in legislation which the Constitution has assigned to the Crown, is either to confirm or reject what has *first* obtained the consent of the two Houses. "The Crown," says Sir W. Blackstone, b. i. c. 2., "cannot begin of itself any alterations in the present established law, but it may approve or disapprove of the alterations suggested and consented to by the two Houses." And I have shown in the preceding pages that it would involve a most unseemly consequence, if, because there is a good and sufficient reason why this rule of Constitutional law should be allowed by the tacit consent of the two Houses of Parliament to have a somewhat different modification in order to admit the authority of the Crown's dissent in the character of an umpire between them in the place of that office which is here

assigned to it, it were held, that the *consent* of the Crown might also become an object of notice otherwise than as this rule admits, and that the legislative projects of its Ministers must be taken to be its own likewise. If this were the case, then would the House of Commons have it in its power to usurp the Crown's legislative function by forcing a Ministry upon its choice ; but the law being adhered to as it now stands, the acquiescence of the Crown in any measure is not to be assumed because its Ministers have introduced and recommended it to Parliament. Let it not then be pretended in the present instance, when the Ministers of the Crown have been forced upon its choice by the refusal of the House of Commons to give its confidence to those to whose hands the Crown would have preferred to commit the reins of Government, that the legislative projects of these men are participated in by the Crown itself ; and least of all let it be pretended with respect to the particular measure in question, when his Majesty is so well known to have given the most unequivocal testimony of his disapprobation of it, a testimony which I have shown it was the duty of the House of Commons to have recognized as authoritative, and in respectful submission to the prerogative so exercised to have foregone the project which the House of Lords had declared its unwillingness to sanction.

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I conclude, therefore, that as the House of Commons, in promoting the present Irish Church Bill under the circumstances of the case, has shown an unjustifiable opposition to the free exercise of the privilege of the House of Lords ; and as it has, moreover, gone counter to the prerogative of the Crown, exercised in a way which this House was under a moral obligation to recognize, it has been guilty of a double breach of moral duty.

It is to be hoped that there are many Members of Parliament who have taken a part in this proceeding without seeing that it was of the character which has been here represented ; and that having now had this placed before them they will no longer persist in a course, which so many of their fellow countrymen deprecate as evil, and condemn as unjustifiable. It will indeed be a joyful thing to witness this ; and to see our public men more disposed in future to confine themselves to that line of moral conduct, in their endeavours to give effect to their political views, which it has been the object of this argument to set before them. As soon as the Irish Church Bill is returned to the House of Commons, amended by the House of Lords, an opportunity will be given for evincing this disposition. If, however, the hope which I have expressed should not be realized,—if it should be found, that those honourable members

of the House of Commons, who voted in favour of the appropriation clause on the 4th of July, do not now repent of having done so, and do not now refuse to vote for the rejection of the amended bill, if that should be proposed, because this clause has been expunged,—then I think it will remain for every well wisher to his country to mark his sense of the evil of unscrupulous political conduct, by adopting towards those public men of his acquaintance, who are guilty of it, that line of conduct which I have before recommended.

THE END.

By the same Author.

THE CASE OF THE IRISH CHURCH ARGUED

ON ITS

MORAL AND RELIGIOUS GROUNDS.

Also,

REASONS FOR THINKING MR. IRVING DECEIVED;

OR,

**A DISCUSSION OF SOME QUESTIONS RELATING TO
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